

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

VICTOR D.,

Case No. 18-CV-03354 (NEB/TNL)

Petitioner,

v.

ORDER ACCEPTING REPORT AND
RECOMMENDATION

SECRETARY OF THE DEPARTMENT
OF HOMELAND SECURITY; WILLIAM
BARR, Attorney General to the United
States; PETER BERG, ICE Field Office
Director; and KURT FREITAG, Freeborn
County Sheriff

Respondents.¹

The Court has received the April 12, 2019 Report and Recommendation of United States Magistrate Judge Tony N. Leung. [ECF No. 14 (“R&R”).] No party has objected to that Report and Recommendation, and the Court therefore reviews it for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). The R&R concludes that “[a] petition who seeks habeas relief from postremoval confinement may not file his or her petition immediately. Instead, the petitioner must wait until after the presumptively-constitutional six-month period described in *Zadvyas* has expired.”

¹ Pursuant to Fed. R. Civ. P. 25(d), the Court orders that William Barr, United States Attorney General shall replace Matt Whitker and Peter Berg, Acting Field Office Director, United States Immigration and Customs Enforcement shall replace Scott Banieceke on the case caption.

(R&R at 5). Because the Court agrees that there is a significant likelihood that the petitioner will be removed soon, dismissal of the petition is proper. The Court therefore accepts the R&R on the grounds that the petitioner failed to prove there is “no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

IT IS HEREBY ORDERED THAT:

1. The Report and Recommendation [ECF No. 14] is ACCEPTED;
 2. The Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 [ECF No. 1] is DENIED;
- and
3. The action is DISMISSED WITHOUT PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: May 22, 2019

BY THE COURT:

s/Nancy E. Brasel
Nancy E. Brasel
United States District Judge